

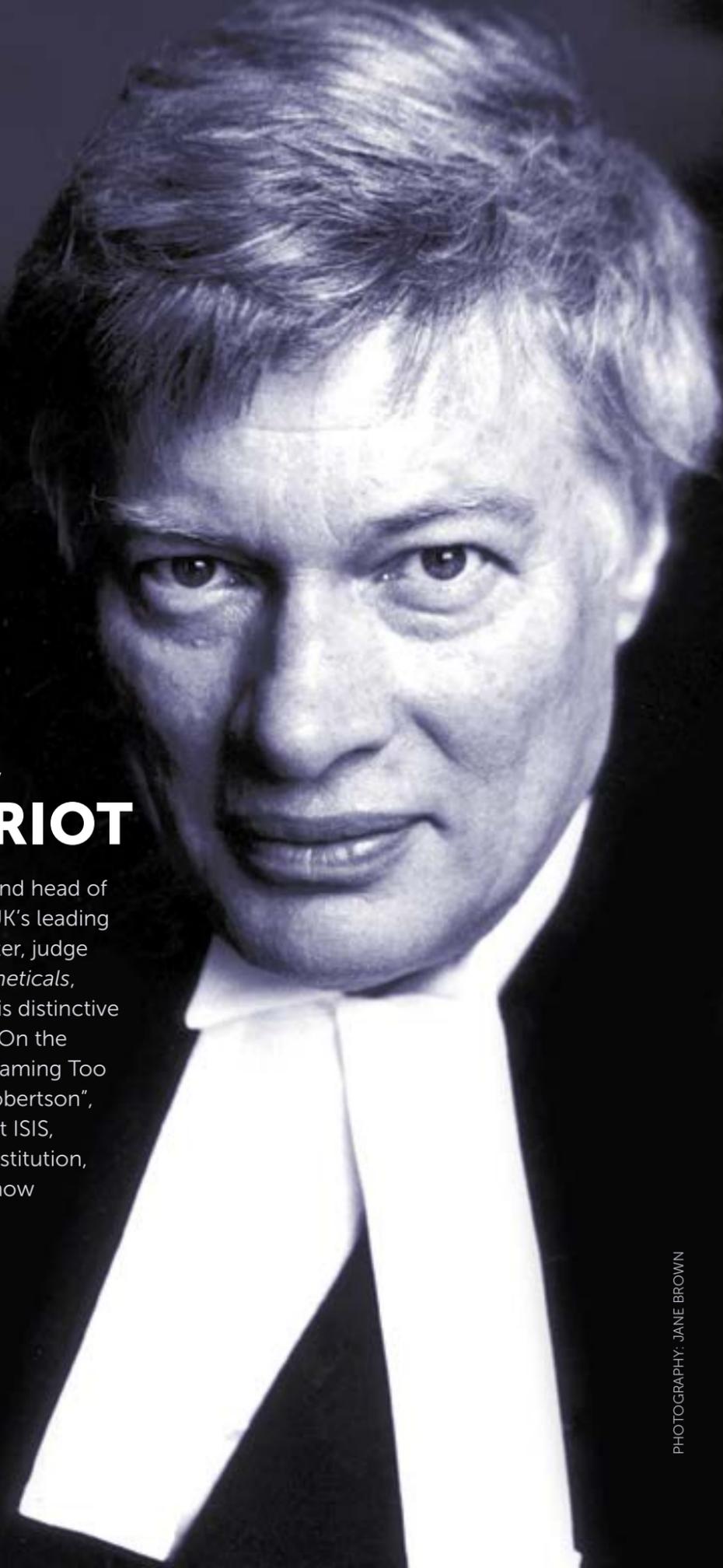
# EXPATRIATE, NOT EX-PATRIOT

Geoffrey Robertson QC is founder and head of the Doughty Street Chambers, the UK's leading human rights practice. A prolific writer, judge and academic, his trademark *Hypotheticals*, broadcast on television, has made his distinctive style familiar to a general audience. On the eve of a national speaking tour, "Dreaming Too Loud – An Evening with Geoffrey Robertson", he talks to **JULIE MCCROSSIN** about ISIS, the Magna Carta, the Australian Constitution, and the precedent for a one-man show by a barrister.

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**DREAMING TOO LOUD**  
An evening with  
**Geoffrey Robertson**  
City Recital Hall, Sydney  
2 May 2015

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PHOTOGRAPHY: JANE BROWN

In May, Geoffrey Robertson will tour Sydney, Perth, Melbourne, Hobart, Brisbane and Canberra with an almost unique stage show. "I'm following Shirley MacLaine," he tells me, laughing on the telephone from his chambers in London, "but I can't sing and I will not dance."

The show will incorporate television footage of Robertson's work in international courts and tribunals and his experience hosting a gathering of leaders in Africa.

The audiovisuals in the production will include archival excerpts from *Hypotheticals* featuring, among other luminaries, Gough Whitlam, Tony Abbott, Annabel Crabb, Marcia Langton and Germaine Greer – all looking very young.

And, of course, there will be Robertson himself: prowling the stage with his characteristic mix of larrikin humour, gravitas, the voice with a "vowel transplant" (as the satirical magazine *Private Eye* once described his accent) and his marvellous capacity to play with the English language.

In short, it will be a show about the law and it will be fun – and there will be pictures.

Is there any precedent for discussing weighty legal principles on a stage?

"I don't think any other barrister has essayed theatre productions," Robertson says chuckling. "Although John Mortimer, of course, my dear friend, did have a stage show called *Mortimer's Miscellany*."

Sir John Mortimer was a barrister and writer. His travelling stage show was described in a BBC review as "an evening of original and beautifully crafted stories and jokes told by the author of *Rumpole of the Bailey*."

Robertson is quick to point out some differences between his upcoming show and Mortimer's.

"In his show he was surrounded by very attractive actresses who read his favourite poems," he recalls with affectionate amusement. "I will not have that pulchritudinous prop. He performed it into late old age and, when he was

warned by his doctor that he was likely to have a heart attack on stage if he continued, he said that would be wonderful! He would like to die like Charles Dickens died – while performing a one-man show. I think Mortimer is the only precedent for my show."

What will Robertson talk about on his Australian tour?

"I will wait and see what is topical at the time," Robertson says. "But a primary purpose is to discuss the ideas in my recent book, *Dreaming Too Loud: Reflections on a Race Apart*."

"In it I expound on a number of ideas I've had about Australia and its future. Although I'm an expatriate, I'm not an ex-patriot, and I do care – about the constitution, for example. The audience may not care, so the challenge will be to draw them in and make them care. I will engage them, stretch their imagination a little, throw myself into a dialogue that they will enjoy at the time and think about later.

"It's also an opportunity to raise money for a couple of good legal causes," he continues. "I am always being asked to do fundraisers for human rights, and I manage to do a few – for Amnesty, for example – but most of the invites I have to turn down because I live in London and have a heavy caseload there. I head a chambers with over 100 barristers and I work elsewhere in the world.

"So if this tour makes any money, I'll be able to share it with the Public Interest Advocacy Centre (PIAC) that does great work in Sydney on human rights, and with a charity run by an Australian lawyer, Phil Lynch, in Geneva that operates to protect human rights defenders. It's the International Service for Human Rights (ISHR).

"The ISHR is an organisation I work with and admire. We're doing a case at the moment against Russia because they're trying to virtually ban human rights organisations that Mr Putin doesn't like, which receive money from abroad. So they are treating them like spies and we're taking that case to the European Court."

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**T**he primary purpose of Robertson's talking tour is to provoke the audience to think about challenges in human rights. What issues does ISIS raise for international law?

"ISIS is a barbaric group that has an ideology which involves killing people of other religions, in particular Coptic Christians and so on," Robertson responds quickly, "Killing groups, or parts of groups, because of their religion is very clearly genocide and is contrary to the Genocide Convention.

"The Genocide Convention is a very important part of international criminal law. Genocide is the worst crime against humanity and so there is, it seems to me, a requirement in the Genocide Convention that states should act to stop the criminal behaviour of ISIS. It is almost a requirement that the powerful states of the world should intervene to protect Christian communities that are at risk from the genocidal intentions of this group."

"I think the air strikes against ISIS are justified if they are designed to protect people of particular races and religions from being executed."

It is a measure of Robertson's skill as a persuasive communicator that, when I ask a question about the significance of this year's 800th anniversary of Magna Carta, his reply has the same passion and intensity as his comments about ISIS.

"Magna Carta is a guarantee of the rule of law. King John came into the meadow at Runnymede an absolute ruler and he left it with limitations on his power," he begins with relish. "And when Magna Carta was reinvented in the 17th century by Oliver Cromwell and his supporters, it was used as the basis for the demand for parliamentary sovereignty, for the demand for the greater widening of the franchise, for the demand for free speech and better access to justice.

"Let's not get our history wrong. We think it is the 800th anniversary of Magna Carta, but Magna Carta was torn up by King John only 10 weeks after he signed it. It didn't really have much influence until 400 years ago when it was used as the intellectual basis for overthrowing absolutist kings in the 1640s and 1650s.

"Magna Carta was the basis upon which Cromwell fought the civil war. The first thing they did when they'd beaten the king was to ride to the Tower of London to inspect its copy of Magna Carta and announce that this is what they had fought for – what they called 'the birthrights of English citizens'.

"I think Magna Carta's continuing relevance is as the

exemplar of the rule of law. Our sovereign today is the government and parliament – but no sovereign can be above the law. Magna Carta is, if you like, the first bill of rights and, in Australia's case, our only bill of rights."

Robertson's reflections on the Australian constitution in his book *Dreaming Too Loud* are sharp.

"Australia was endowed with a supreme law – its constitution – which lacked any systematic protection for citizen liberties," he writes. "If I am a refugee from anything, it is from the Australian constitution."

Faced with this lacuna in the Australian legal landscape, Robertson believes, Magna Carta becomes even more important.

"I think that Magna Carta has a continuing importance for Australian law," he explains. "It became part of the common law of Australia when Arthur Phillip ran up the flag on 26 January 1788 under the doctrine that he thereby imported into the country as much of the British common law as was capable of application to its conditions.

"So Magna Carta's great promise – 'to no man will we sell, to no man will we deny or delay justice or right' – was part of our law from the beginning. Phillip in fact ensured that his Judge Advocate protected convicts against theft by marines – and punished convicts and soldiers alike who assaulted Aborigines.

"Although Magna Carta's promise of trial by peers, which became trial by jury, wasn't applicable to a penal colony – and the trials initially were by court martial – it wasn't long before Macquarie's time when the great fight was for emancipists to serve on juries and Magna Carta was very much used in the struggle for emancipists' rights against the free settlers.

"So Magna Carta is important in Australian history. It is even more important, it seems to me, in world history. When Eleanor Roosevelt handed the Universal Declaration of Human Rights to Dr Evatt, who was President of the General Assembly of the UN, she said, 'This will be the Magna Carta for mankind'. I think today she would have said, 'Magna Carta for humankind'.

"But it has inspired bills of rights. Its promise of fair trial and its promise of access to law has been significant in the demand for access to the courts through legal aid schemes and judicial review of bureaucratic action. The aphorism 'justice delayed is justice denied' is based on Magna Carta. All this is frequently heard in courts around the Commonwealth.

"I have often cited it in appeals to the Privy Council and indeed I used it to obtain commutations of death sentences where men had been kept on death row for many years."

Robertson's commitment and belief in his work is

exhilarating. He has an energy and intellectual curiosity more common among the young.

I wonder what advice he would give a student keen to follow a similar career to his own?

"I am always taken aback when somebody comes up to me and says, 'you inspired me to be a lawyer'. I fear I might have ruined their life," he replies, "because effective lawyering can be a very hard grind, and lives might be better spent writing poetry, performing acrobatics or running an NGO in Turkmenistan.

"The law, and the profession, has changed so much since I was a student that I am reluctant to extrapolate from my career any guidance that will be of use – after all, I had to do three years of clerkship – running around the Sydney streets to file documents before getting to my university classes – it taught me how to dodge traffic. But I must say, working as a solicitor in a top legal firm had one great advantage – I became a dab hand at tax planning – it taught me the rudiments of professionalism.

"There is advice that I do pass on to young lawyers anxious to work in human rights. Don't be too anxious – learn the trade first, how to conduct interviews, how to think through the best way to help a client (they often cannot understand their best interests, or what the law can do for them) and above all, have a solid grounding in the ethics of the profession.

"If you are going to do high-profile cases, or act for unpopular people, you must be confident in your professional instincts, because powerful enemies will try to trip you up. Think of your profession as a shield for yourself and a sword for your client. Always resist the temptation to break its rules, that's dropping your shield. I've lost count of the times in my career that I have been irritated by professional rules – most of them have now been abolished – but the fact that I have never had a professional conduct complaint upheld against me means that my reputation could not be assailed by my client's enemies.

"I'm sorry if these Polonius-like precepts sound unexciting. But in order to be a creative

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lawyer you do need a solid grasp of the essentials of contract, tort and property: I have re-visited some of the cases I thought I would never look at again after my first year at Sydney University in order to develop arguments, for example, for the return of Aboriginal human remains from British museums, and now for the return to Greece of the Parthenon Marbles.

"So don't diminish academic excellence, but don't stay at university too long. Get a thorough grounding in the profession, even if the work is not obviously connected to human rights (it's amazing how useful my knowledge of tax law has been in helping to expose international money laundering!).

"If you are confident that you want to work in a human rights field, then make your move when you are qualified and capable. There are some opportunities in Australia, obviously, with the Human Rights Commission or NGOs like PIAC (The Public Interest Advocacy Centre) that deal with the problem of refugees or indigenous people. On the world stage, you might obtain an internship with an international judge in The Hague, or at an NGO in Geneva, where the Human Rights Committee is based, or in London where international lawyers seem to congregate.

"By all means, do a masters in international human rights law, although don't get hung up on going to Oxford or Cambridge. London University, in its many colleges, has excellent courses.

"But do realise, that if you want to go the bar, and practise in the many and varied areas of human rights, that you will need a great deal of persistence to become established. It is really hard – but not impossible – to succeed, and you must have something of a burning desire to use law to make the world a better place before you should even attempt it. And let's face it, if your ambition is to make a lot of money, you will do better as a real estate agent or hedge-fund trader!" **LSJ**

**Dreaming Too Loud – An evening with Geoffrey Robertson** opens in Sydney at the City Recital Hall on Saturday, 2 May.